



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

ARGEO PAUL CELLUCCI
Governor

JANE SWIFT
Lieutenant Governor

BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

HAZARDOUS WASTE REGULATIONS
FOR MASSACHUSETTS:
310 CMR 30.000

PUBLIC HEARING DRAFT:
REVISIONS TO THE HAZARDOUS
WASTE TRANSPORTER PROGRAM
AND MISCELLANEOUS AMENDMENTS

March 2000

*Prepared by: The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
Bureau of Waste Prevention
Business Compliance Division*





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Dear Citizen:

I am pleased to send you this copy of the public hearing draft of amendments to the Massachusetts hazardous waste regulations for licensed transporters. The proposed revisions will reduce the administrative burden associated with applying for a hazardous waste transporter license in Massachusetts, while ensuring adequate safeguards to protect the public and the environment.

I hope that, after reviewing this public hearing draft, you will comment on it and attend one of the public hearings to be held by the Department at the end of April; the public comment period will end on May 8, 2000. Comments should be submitted to the Department of Environmental Protection, Business Compliance Division, c/o James Paterson, One Winter St., 9th Floor, Boston, MA 02108. Your comments will be carefully considered as we continue to develop and amend the Department's regulations so that they will contribute to improving the public health, safety and welfare and the environment, in such a way as to maintain the economic well-being of the Commonwealth.

Very truly yours,

James C. Colman
Assistant Commissioner
Bureau of Waste Prevention

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DEP on the World Wide Web: <http://www.magnet.state.ma.us/dep>



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1. Legal Notice

**The Commonwealth of Massachusetts
Department of Environmental Protection
Business Compliance Division
Hazardous Waste Program Notice**

Notice is hereby given that the Department of Environmental Protection, acting in accordance with the provisions of M.G.L. c. 21C, ss. 4 and 6, will hold six public hearings at the times and places set forth below. The proposed regulations will combine five of the existing nine hazardous waste transporter permitting categories into one (and eliminate the other four categories); consolidate the number of permit modification categories from three into one; introduce a 30-day presumptive approval for modifications; and modify the public notice process for license applications. A number of other minor changes are proposed to the transporter regulations and other parts of 310 CMR 30.000. Public hearings will be conducted under the provisions of M.G.L. Chapter 30A on:

Monday, April 24, 2000 - Boston - 2:00 p.m.
Department of Environmental Protection
One Winter Street, 4th Floor Conference Room

Monday, April 24, 2000 - Wilmington - 3:00 p.m.
Department of Environmental Protection, Northeast Regional Office
205 Lowell St.

Tuesday, April 25, 2000 - Springfield - 10:00 a.m.
Department of Environmental Protection, Western Regional Office
436 Dwight St., Room 517

Tuesday, April 25, 2000 - Boston - 10:00 a.m.
Department of Environmental Protection
One Winter Street, 4th Floor Conference Room

Thursday, April 27, 2000 - Lakeville - 11:00 a.m.
Department of Environmental Protection, Southeast Regional Office
20 Riverside Dr., 1st Floor Conference Room

Thursday, April 27, 2000 - Boston - 2:00 p.m.
Department of Environmental Protection
One Winter Street, 4th Floor Conference Room

Testimony may be presented orally and/or in writing at the public hearings. The period for accepting written comments will remain open until **5 p.m. on May 8, 2000**. Submit to: Department of Environmental Protection, Business Compliance Division, c/o James Paterson, One Winter St., 9th Floor, Boston, MA 02108. Copies of the proposed regulations can be obtained at one of the Service Centers at each of Department's four regional offices; by contacting James Paterson at (617) 556-1096; or by accessing DEP's web site at www.state.ma.us/DEP under "New Additions."

2. Introduction and Background to the Proposed Revisions to the Transporter Program

Efforts to streamline the Massachusetts hazardous waste transporter program began with concerns that the Department commits an inordinate amount of time to processing transporter license applications. At the same time, the burden on applicants is also extensive. The streamlining review also reflects changes in the waste management industry since the transport rules were first promulgated in 1973. For example, licensees have gained experience and developed expertise in matters pertaining to hazardous waste management.

In September 1998, the Department formed the Transporter Permit Streamlining (TPS) Committee for the purpose of evaluating the existing licensing process and for recommending regulatory and non-regulatory streamlining improvements. The TPS Committee includes representatives from the transporter industry and the Department. After several meetings, the TPS Committee presented its recommendations to the Department, as well as to the Hazardous Waste Advisory Committee (HWAC) and its Transporter Subcommittee. The Department agreed to propose modifications to the Transporter Licensing Program consistent with the recommendations, and both the Transporter Subcommittee and the HWAC endorsed the TPS Committee's recommendations.

The key regulatory changes are:

- Combining five of the existing nine hazardous waste transporter permit categories into one licensing category, and eliminating the other four categories, including the specific authorizations to transporters for servicing small quantity generators and for conducting emergency spill cleanup;
- Instituting a new mechanism for public notice of license applications. Currently, the Department twice submits notices for publication in the Environmental Monitor (the "Monitor"). The proposal eliminates both notices in the Monitor and requires instead that the applicant publish a legal notice in a local newspaper;
- Eliminating the issuance of Draft Transport Licenses;
- Issuing Vehicle Identification Device (VID) stickers each year including the year of the initial issuance of a VID card. Currently, a plastic VID card is issued each year for the 5 years that the permit is valid. Use of stickers would start in January 2001; and,
- Consolidating minor and major modifications into one modification category;
 - Changing the modification process by adding a presumptive approval procedure in place of the existing review process. Under the presumptive approval procedure, a modification request would be automatically approved 30 days after the Department has signed for receipt of the

application unless the Department otherwise notifies the applicant within that 30 day period.

[NOTE: The Department will soon promulgate revisions to the fee regulations at 310 CMR 4.00 that parallel revisions being proposed here in 310 CMR 30.000; it is the Department's intent to have the effective date be the same for the two sets of regulatory amendments.]

The key non-regulatory changes are:

- Consolidating the Department's administrative and technical reviews into one review, and compressing review time-lines.

[NOTE: The Department will soon promulgate revisions to the fee regulations at 310 CMR 4.00 that parallel revisions being proposed here in 310 CMR 30.000; it is the Department's intent to have the effective date be the same for the two regulatory packages.];

- Simplifying the signature procedure for the Final License;

3. Rationale for Key Regulatory Revisions

a. Consolidating Hazardous Waste Transporter Permit Categories:

Currently, there are nine hazardous waste transporter permit categories:

- transportation of all types of hazardous waste,
- transportation of waste oil only,
- transportation of waste oil and PCB's only (optionally including contaminated soil),
- transportation of waste oil and gasoline (optionally including contaminated soil),
- transporters that handle only their own hazardous waste
- transporters with status under review,
- transporters that are also a licensed Treatment, Storage, and Disposal Facility (TSDF),
- emergency spill cleanup authorization, and,
- servicing Small Quantity Generators (SQGs) authorization.

The Department proposes to reduce the first five of these nine categories to one category entitled "Transportation of Hazardous Waste", and to eliminate the last four categories listed above.

- (1) Combining Five Categories into One Category: The Department proposes to combine the "all types of hazardous wastes" category, the three waste oil categories, and the category entitled "transporters handling only their own waste" into one licensed "hazardous waste" category. According to transporter industry representatives of the TPS Committee who advised the Department, transporters of waste oil only (and the associated waste oil categories) already receive appropriate training to handle hazardous waste, since waste oil shipments occasionally turn out to be hazardous waste due to contamination with hazardous constituents. A benefit of the one category approach is that a waste oil transporter would be able to haul a contaminated waste oil load without getting special approval from the Department. Regarding transporters handling only their

own waste, over the last fifteen years, no transporters have sought a license limited to transporting only their own waste.

- (2) Eliminating Categories related to "Status under Review" and "Transporters that are TSDFs": The categories "transporters with status under revision" and "transporters that are TSDFs" have not been considered licensed categories, rather were listed for informational purposes only on the Department's list of transporters. This information will continue to appear on the list of transporters, and not on the license itself.
- (3) Eliminating the Emergency Spill Cleanup Category: Emergency spill cleanup activities are regulated by the Department's Bureau of Waste Site Cleanup (BWSC) in accordance with the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000. The existing emergency spill cleanup authorization for hazardous waste transport licenses predates the 310 CMR 40.0000 requirements and today adds little value given the MCP standards. Eliminating the emergency spill cleanup category will end the confusing regulatory overlap that currently exists between the BWSC and the Bureau of Waste Prevention's hazardous waste transporter program. Waste generated as a result of spill cleanups and requiring management as a hazardous waste will continue to be hauled by transporters licensed by the hazardous waste transporter program. If not requiring management as a hazardous waste, the wastes are handled under the MCP as remediation waste.
- (4) Eliminating Authorization for Servicing SQGs: Currently, transporters may receive authorization to assist generators in complying with generator packaging, labeling, marking, and manifesting requirements. This permit category is being eliminated because there is limited value in requiring transporters to obtain special authorization in order to service SQGs. Requiring transporters to have permitted status in order to advise SQGs on managing hazardous wastes puts transporters at an unfair disadvantage. No such requirement applies to consultants, for example, that provide such services to SQGs. The SQG servicing authorization may expose transporters to potential third party liability or enforcement for failure to provide adequate information to the generator. Finally, these amendments also eliminate potential confusion among SQGs that may be under the mistaken impression that they are not responsible for understanding how to manage their hazardous waste when they contract the services of a licensed transporter with authorization for servicing SQGs.

b. Public Notice for License Applications: The Department proposes a new mechanism for public notice of transporter license applications. Currently, two notices appear in the Massachusetts Environmental Monitor (the "Monitor"), once upon receipt of the application and again upon issuance of the draft license. There is no statutory requirement for notice of the transporter license application to appear in the Monitor. In the 18 years of requiring applicants to publish notices in the Monitor, the Department has received comments only six times. As proposed, applicants will be responsible for

putting a public notice in a local newspaper. The cost of publishing the notice will be the responsibility of the applicant, and the notice must be published no later than 15 days after the date on which the Department signs for receipt of the application. The applicant must provide the Department and the local board of health (BOH) with a copy of the published newspaper notice within 21 days after the Department signs for receipt of the license application. The Department also has introduced a definition for "applicant's office" which identifies the town/city in which a notice must appear in a local newspaper and the town/city to whose BOH the applicant must send a copy of the application. Note that "applicant's office" is defined as the "location where transportation related activities take place and license records are maintained." Out-of-state applicants without an in-state "applicant's office" will not need to publish a notice in a local newspaper or send a copy of their application to a Massachusetts BOH.

In addition, the applicant will provide a copy of the application and the notice directly to the local (Massachusetts) BOH for review by the public. The applicant must also provide the Department proof of receipt by the BOH. Currently, the Department sends a copy of the application to the BOH for all Massachusetts applicants

c. Eliminate Draft Transport License: The Department proposes to eliminate the reference to "Draft approvals of transport licenses" at 310 CMR 30.834(1)(b). Currently, the Department issues the draft license then receives comments prior to issuing a final license. This "draft approval" step would be eliminated from the application process in order to streamline the administrative review process for transporter license applications within the Department. Under this proposal, the public would receive notice of license applications in a local newspaper and would then have a 45-day comment period after the notice is published, which the Department believes is sufficient. The public would also still have the option to request notice of final license determinations from the Department.

(d) Vehicle Identification Device (VID) Issuance: The Department proposes to issue stickers annually to update VID cards. The proposal is intended to reduce the Department's workload associated with processing over 6,000 VID's annually; the issuance of VID stickers in place of manually punched VID cards will reduce Department expenses and workload appreciably. This change will appear at 310 CMR 30.010 at the definition of "Vehicle Identification Device" and at 30.414. The definition will be changed by adding the following language: "A vehicle identification device is not valid unless it has affixed to it a Department-issued sticker for the current calendar year."

e. Consolidate Minor Modifications/Major Modifications: The Department proposes to collapse three categories of Minor and Major Modifications to Transporter Licenses into one category, to be referred to as BWPBW27. Categories currently referred to as "BWPBW18", "BWPBW19" (both hazardous waste) and "BWPBW17" (precious metals (B(4) would be deleted. Under this proposal, there will be only one category of modification that will include a provision for changes to address, EPA ID number, telephone number, or waste categories/codes, and modifications that do not constitute 30.828

license transfers. Modifications that do not constitute 30.828 license transfers may include a name change, stock transfer (> 5% equity/liability), or a new owner/operator.

In addition, a 30-day presumptive approval is introduced at 30.851(2). The Department would continue to initially screen modification applications for categories that may require Department review and approval (e.g. waste code/category additions, name changes, changes involving stock transfers). The modification becomes effective 30 days after the Department has received the application, i.e., after the date that either the Department signs the certified mail receipt, or the applicant hand delivers the application (and receives a signed receipt) unless the Department notifies the applicant within the 30 days. If, during the 30 day technical review period described above, the Department identifies deficiencies or determines that a modification change requires further Department review, the Department will issue a deficiency letter or otherwise notify the applicant. The applicant then has 30 days to respond to any identified deficiencies. The Department then has 30 days from receipt of response to either issue or deny the modification in writing. The Department models the proposed presumptive approval modification language after the Class A Recycling Approval language in 310 CMR 30.221(2)(a).

4. Proposed Regulatory Revisions to the Transporter Regulations

Please note that the numbered amendments in this section are presented in red-line (shaded, text added) and strikeout (line-through, text deleted) format.

1. 310 CMR 30.010 is hereby amended as follows:

30.010: Definitions

As used throughout 310 CMR 30.000, the following terms shall have the following meanings, unless the context clearly indicates otherwise...

Vehicle Identification device means the document which identifies a specific vehicle used to transport hazardous waste and which is issued by the Department pursuant to M.G.L. c. 21C, Section 7. ~~Effective January 1, 2001, a vehicle identification device is not valid unless it has affixed to it a Department-issued sticker for the current calendar year.~~

2. 310 CMR 30.274(6)(e) is hereby amended as follows:

30.274: Transport and Manifest Standards

(1)

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(6) If the transporter has a Class B(4) permit issued pursuant to 310 CMR 30.275 and does not have a license issued pursuant to 310 CMR 30.400 and 30.800, the transporter shall

(a)

.
. .
(e) comply with the requirements set forth in 310 CMR 30.404 through 30.406, 30.408 through 30.409, ~~30.412(1)~~, 30.413, and 30.415, and ..."

3. 310 CMR 30.402(5) is hereby amended as follows:

30.402: Requirements for Transporting Hazardous Waste

No person, unless exempted by 310 CMR 30.401, shall transport hazardous waste without obtaining and maintaining in effect: ...

(1)

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. .
.

(5) A written certification of hazardous waste transporter training in accordance with ~~310 CMR 30.409(4)~~ 310 CMR 30.409(2).

4. 310 CMR 30.409(1) is hereby amended as follows:

30.409: Instruction and Training

(1) All hazardous waste handlers and their employees who may handle hazardous waste or accompany vehicle drivers during handling or transportation of hazardous waste, shall successfully complete a program of instruction that teaches how to perform transportation duties in a way that assures the transporter's compliance with all ~~applicable~~ DOT requirements at 49 CFR Part 172, Subpart H and Part 177. Such program shall include, but not be limited to, the following:

5. 310 CMR 30.412 is hereby amended as follows:

~~30.412: Special Conditions~~

~~(1) Spill cleanup.~~

~~(a) A transporter engaging in emergency spill cleanup activities, other than those caused by the transporter himself, shall observe the special emergency cleanup provisions of his license and shall transport the debris which is cleaned up, accompanied by a valid manifest, to a licensed treatment, storage or disposal facility, to a person licensed for use of such waste, or to a location specified by the Department pursuant to 310 CMR 30.860.~~
~~(b) For the purpose of filling out a manifest, a transporter cleaning up a spill may use his EPA identification number as the generator number on the manifest, and if he does so, he shall comply with all applicable requirements of 310 CMR 30.300.~~
~~(c) The transporter shall orally notify the Department within 24 hours of the commencement of the cleanup.~~

~~(2) Assumption of requirements of certain small quantity generators. A transporter authorized by a special condition or conditions in his license to service small quantity~~

~~generators may fulfill the pre-transport requirements of 310 CMR 30.320 through 30.324."~~

30.412: Reserved

6. 310 CMR 30.414 is hereby amended as follows:

30.414: Vehicle Identification Device

No transporter shall transport hazardous waste in any motor vehicle in the Commonwealth unless the Department has issued a vehicle identification device to that transporter for that vehicle. ~~Said vehicle identification device shall be attached to the cab card and shall accompany each shipment of hazardous waste.~~ Said vehicle identification device shall have affixed to it a Department issued sticker with an expiration date for the current calendar year. Said vehicle identification device shall also be attached to the cab card and accompany each shipment of hazardous waste. Vehicle identification devices shall be returned to the Department upon demand.

7. 310 CMR 30.415 is hereby amended as follows:

30.415: Emergency Procedures Guide

All persons who transport hazardous waste in the Commonwealth shall prepare, and follow when necessary, an Emergency Procedures guide, hereafter in 310 CMR 30.415 called the Guide. The Guide shall outline emergency procedures to be followed in the event of a discharge of hazardous waste during transport, including, ~~but not limited to~~ at a minimum: how and to whom notification of such a discharge shall be given; how the discharge shall be initially contained; and how required equipment shall be used. No transporter shall transport.....

8. 310 CMR 30.415(1) is hereby amended as follows:

30.415: Emergency Procedures Guide

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.
.

(1) The ~~guide~~Guide prepared by the transporter.

9. 310 CMR 30.415(2)(c) is hereby amended as follows:

(2) Telephone numbers of:

(a)

.
.

(c) ~~The telephone number of the Chemical Transportation Emergency Center (CHEMTREC).~~ The Emergency Response telephone number as required by 49 CFR 172.604.

10. 310 CMR 30.805(7) is hereby amended as follows:

30.805:Additional Requirements for Transport License Applications

All hazardous waste transport license applications shall include at least the following additional information, and any other information that may be requested by the Department:

(1)

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. .
.

(7) Information indicating the types and physical states of hazardous waste to be transported and the approximate annual quantity of ~~each type of~~ hazardous waste to be transported.

11. 310 CMR 30.805(8) is hereby amended as follows:

30.805:Additional Requirements for Transport License Applications

All hazardous waste transport license applications shall include at least the following additional information, and any other information that may be requested by the Department:

(1)

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. .
.

~~(8) Information indicating if the applicant is applying for a special condition to provide services to small quantity generators pursuant to 310 CMR 30.412(2), and if so, information demonstrating:~~

~~(a) The applicant's competence to provide such services, and~~

~~(b) How the applicant intends to provide such services, including procedures and analyses to be used to verify that the identification of the waste as written on the manifest is correct.~~

(8) Written documentation that the applicant has furnished a copy of the application to the local board of health (i.e, in the Massachusetts town/city of the applicant's office address where transportation-related activities take place and license records are maintained) at the time the application was submitted to the Department. Such documentation includes, but is not limited to, a certified mail receipt. Applicants with no office in Massachusetts (as defined above) are exempt from 310 CMR 805(8).

12. 310 CMR 30.824 is hereby amended as follows:

~~30.824:Special Condition of Transport License~~

~~(1) The Department may include in a transporter's license special conditions for handling wastes from small quantity generators. Such conditions shall allow the transporter to fulfill the following requirements:~~

~~(a) The pre transport requirements of 310 CMR 30.320 through 30.324, and~~

~~(b) The manifest requirements of 310 CMR 30.310 through 30.316, except for the following requirements, which shall~~

~~always be carried out by the generator:~~

- ~~1. Signing the manifest certification by hand, and~~
- ~~2. Forwarding a copy of the manifest to the Department.~~

~~(2) The Department may include in a transporter's license special conditions allowing that transporter to engage in emergency cleanup activities caused by a person other than the transporter. Such conditions shall specify that the transporter, when engaged in such emergency cleanup activities, may be deemed the generator, and if so deemed, shall fill out the manifest accordingly. Such conditions shall require that the transporter orally notify the Department within 24 hours of the commencement of the cleanup.~~

30.824: Issuance of Transporter License

- (1) After the close of the public comment period, the Department shall, by first-class mail, give notice of its final license determination to the applicant and to each person who has submitted written comments, or has otherwise requested notice of the final determination.
- (2) A final license determination shall become effective 21 days after the date of the notice of determination given pursuant to 310 CMR 30.824(1), unless a request for adjudicatory hearing is made pursuant to M.G.L. c. 21C, and M.G.L. c. 30A, and 310 CMR 1.00.

13. 310 CMR 30.834(1) is hereby amended as follows:

30.834: Public Notice of Transport License Actions

~~310 CMR 30.834, applies to transport license applications.~~

~~(1) Notice of the following actions regarding licenses to transport hazardous wastes shall be transmitted to the Environmental Monitor:~~

- ~~(a) Applications for transport licenses;~~
- ~~(b) Draft approvals of transport licenses; and~~
- ~~(c) Class 2 or 3 modifications pursuant to 310 CMR 30.852.~~

(1) The applicant shall publish a "Notice of Application for a Transporter License" in a newspaper with circulation in the Massachusetts town/city of the applicant's office address where transportation-related activities take place and license records are maintained. The notice shall be on a form provided by the Department.

- (a) The notice must appear in the newspaper within 15 days after the Department signs for receipt of the written application
- (b) Within 21 days after the Department signs for receipt of the written application, the applicant must provide a copy of the published newspaper notice to the Department and the local (Massachusetts) board of health.
- (c) The notice shall provide for a 45-day comment period, beginning on the date of the publication of the notice, during which comments may be submitted to the Department at the address provided in the notice form.

14. 310 CMR 30.834(2) is hereby amended as follows:

30.834: Public Notice of Transport License Actions

310 CMR 30.834, applies to transport license applications.

(1)

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~~(2) If the Environmental Monitor does not publish the notice described in 310 CMR 30.834(1), the Department shall give notice by another substantially equivalent means.~~

15. 310 CMR 30.834(3) is hereby amended as follows:

30.834:Public Notice of Transport License Actions

310 CMR 30.834, applies to transport license applications.

(1)

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.
.

~~.(3) An application, draft approval, or Class 2 or 3 modifications pursuant to 310 CMR 30.852 referred to in 310 CMR 30.834, shall be available for public review for 21 days from the date of notice thereof.~~

(2) An application shall be available at the Department's Boston office and, for in-state applicants, at the local board of health for public review and comment for 45 days after the notice publication date.

16. 310 CMR 30.834(4)(d) is hereby amended as follows:

~~(4)~~ (3) All public notices issued pursuant to 310 CMR 30.834, shall at a minimum, contain the following information:

(a)

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.
.

(d) The name, address, and telephone number of an individual from whom interested persons may obtain further information, including a copy of the ~~draft license or~~ application;

17. 310 CMR 30.834(4)(e) is hereby amended as follows:

~~(4)~~ (3) All public notices issued pursuant to 310 CMR 30.834, shall at a minimum, contain the following information:

(a)

.
.
.

(e) A brief description of the required public comment ~~procedures;~~ procedures; and

18. 310 CMR 30.834(4)(f) is hereby amended as follows:

~~(4)~~ (3) All public notices issued pursuant to 310 CMR 30.834, shall at a minimum, contain the following information:

(a)

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. .
.

(f) Any additional information considered necessary or appropriate, including any other procedures by which a person may participate in the process leading to a final license ~~decision,~~ and determination.

19. 310 CMR 30.834(4)(g) is hereby amended as follows:

~~(4)~~ (3) All public notices issued pursuant to 310 CMR 30.834, shall at a minimum, contain the following information:

(a)

.
. .
.

(f) Any additional information considered necessary or appropriate, including any other procedures by which a person may participate in the process leading to a final license determination.

~~(g) A tentative schedule for the decision making process.~~

20. 310 CMR 30.838 is hereby amended as follows:

~~30.838: Issuance and Effective Date of License~~
30.838: Issuance of Facility License

21. 310 CMR 30.838(1) is hereby amended as follows:

30.838: Issuance and Effective Date of License

(1) After the close of the public comment period, or following any informal public hearing, the Department shall, by first-class mail, give notice of ~~its final license decision~~ the final license determination to the applicant and to each person who has submitted written comments, or has otherwise requested notice of the ~~final license decision~~ final license determination.

22. 310 CMR 30.838(2) is hereby amended as follows:

30.838: Issuance and Effective Date of License

(1).....

~~(2) A final license decision shall become effective 21 days after the date of the notice of the decision given pursuant to 310 CMR 30.838(1), unless:~~

- ~~(a) No comments requesting a change in the draft license were received, in which case the license shall become effective immediately upon issuance of the final license decision; or~~
~~(b) A request for an adjudicatory hearing is made~~

~~pursuant to M.G.L. c. 21C and c. 30A, and 310 CMR 1.00.~~

(2) A final license determination shall become effective 21 days after the date of the notice of determination given pursuant to 310 CMR 30.838(1), unless a request for adjudicatory hearing is made pursuant to M.G.L. c. 21C, M.G.L. c. 30A, and 310 CMR 1.00.

23. 310 CMR 30.851 is hereby amended as follows:

30.851:License Modifications

(1) General Provisions.

~~(1)~~ (a) A license may be modified by the Department for cause. The filing of a request by a licensee for a license modification or of a notification of planned changes or anticipated non-compliance does not stay any license condition.

~~(2)~~ (b) The Department may modify a license upon its own initiative, upon request by a local board of health or other municipal authority, upon request via written application by a licensee, or upon request of any other interested person. If the Department decides to deny a request to modify a license, the Department shall send to the person making the request a brief written response giving a reason for the Department's decision. Except as provided in 310 CMR 30.890, denial of a request for modification of a license shall not be subject to public notice, public comment, or public hearings. If the Department ~~tentatively~~ decides to grant a request to modify a license, the Department shall proceed in accordance with ~~310 CMR 30.000~~ 310 CMR 30.850

(2) Presumptively Approved Transporter License Modifications

(a) A transporter who seeks to modify a license shall submit an application to the Department on a form provided by the Department. Such modification shall be effective 30 days after the Department's receipt of the application, unless the Department notifies the applicant within that 30 days of a deficiency in accordance with 310 CMR 4.00, or denies the license modification in writing. A presumptively approved license modification shall be a "license modification" as that term is used in 310 CMR 30.851, even though the Department has not issued a written approval.

(b) Licensees must submit presumptive approval modification applications by hand delivery with receipt or by certified mail.

(3) Facility License Modifications

~~(3)~~ (a) A license may be modified for reasons which include, but are not limited to, the following:

~~(a)~~ 1. The licensee desires to make material and substantial alterations or additions to the licensed facility, or any other change to a license condition.

~~(b)~~ 2. The Department has information which was not available at the time of license issuance and which would have justified the application of different license conditions.

~~(c)~~ 3. The standards, regulations, or statute on which the license was based have been changed by promulgation of amended standards and regulations, by judicial decision, or by a change in the statute after the license was issued.

~~(d)~~ 4. The corrective action program specified in the license pursuant to 310 CMR 30.672 has not brought the regulated unit(s) into compliance with the requirements of 310 CMR 30.665: *Groundwater Protection Standard*.

- ~~(e)~~ 5. The owner or operator has been conducting a compliance monitoring program pursuant to 310 CMR 30.671 or a corrective action program pursuant to 310 CMR 30.672 and the compliance period ends, in which case the license modification shall include a detection monitoring program meeting the requirements of 310 CMR 30.664.
- ~~(f)~~ 6. A license requires a compliance monitoring program pursuant to 310 CMR 30.671 and monitoring data collected indicates that the facility is not meeting the requirements of 310 CMR 30.665: *Groundwater Protection Standard*.
- ~~(g)~~ 7. A land treatment unit is not achieving complete treatment of hazardous constituents.
- ~~(4)~~ (b) Suitability of the facility location shall not be considered at the time of license modification unless new information or standards indicate that a threat to public health, safety, or welfare, or the environment exists which was unknown or not understood at the time of license issuance.
- ~~(5)~~ (c) If a license modification is requested by the licensee, the Department shall approve or deny the request according to the procedures set forth in 310 CMR 30.852.

24. 310 CMR 30.852 is hereby amended as follows:

"Facility License Modification at the request of the Licensee"

5. Rationale for Key Non-Regulatory (Programmatic) Revisions:

The following programmatic revisions to the Hazardous Waste Transporter Program are included in this public hearing draft for informational purposes only. They are non-regulatory in nature and therefore not subject to a formal rulemaking process.

a. Combined Reviews/Time-Lines: The Department proposes to combine the Administrative Review and the Technical Review for all transporter and Regulated Recyclable Material transporter (RRM) license applications. This proposal is intended to further compress the application review timeline and reduce the paperwork associated with the two-step review. Currently, applicants face a turnaround time of up to five months. Proposed revisions would compress the current Administrative Completeness (AC, 30 days) and Technical Review (T1, 90 days) to a new combined review time of 60 days.

In addition, the Department proposes to reduce the Department's Supplemental Technical Review (T2) from 90 days to 60 days, and to reduce the Department's Public Comment Review (PC) from 90 days to 30 days. The Department also proposes that the 180 day maximum response time allowed for transporters (and RRM transporters) to respond to technical deficiencies be reduced to 60 days.

b. Simplified Signature Procedure for the Final License The Department's proposed procedure includes the following features:

- the Department sends applicant a "final license" document with the application;

- the applicant fills out items 1-7 of the "final license" form (including the applicant's signature on line 7(b)) and submits it with the application to the Department;
- upon deciding to issue the license, the Director of the Business Compliance Division signs and sends the final license to the applicant, along with the final license determination letter;
- in the event that the Department adds a special condition to the license, a new "final license document" that lists the condition(s) would be sent to the applicant for signature; the license with condition(s) would then be signed by the Department; and,
- the license becomes effective 21 days after the date of the signature on the license by the Director of the Division, unless an appeal has been received by the Department within that 21 days. In that case, the license is not in effect until and if the appeal is favorably resolved.

6. Miscellaneous Amendments to 310 CMR 30.000: The following revisions are proposed in order to correct typographical errors or provide clarity in 310 CMR 30.000. Please note that numbered items in this section are presented in red-line (shaded, text added) and strikeout (line through, text deleted) format.

1. 310 CMR 30.099(6)(b)8. is hereby amended as follows:

30.099: Transition Provisions

Except as specifically provided below, all requirements of 310 CMR 30.000 shall be complied with on and after the effective date of 310 CMR 30.000.

(1)

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(6)

(b) 40 CFR Part 265 SubPart G [Closure and Post Closure], subject to the following provisions:

8. the requirements of ~~310 CMR 30.582B~~ 310 CMR 30.582 [Closure Performance Standard], ~~310 CMR 30.585B~~ 310 CMR 30.585 [Disposal or Decontamination of Equipment],.....

[Public Hearing Draft Note: 30.582B and 30.585B no longer exist.]

2. 310 CMR 30.205(19) is hereby amended as follows:

30.205 General Conditions for all Recycling Permits

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(19) Storage and Accumulation in Tanks and Containers Regulated recyclable materials shall be stored or accumulated only in tanks or containers.

Generators of regulated recyclable materials that are waste oil or used oil fuel shall comply with 310 CMR 30.253. Generators of all other regulated recyclable materials shall comply with 310 CMR 30.340 (for large quantity generators), 30.351 (small quantity generators), or 30.353 (very small quantity generators), as applicable. ~~If the permittee stores or accumulates the regulated recyclable material in tanks, such tanks shall be in compliance with the requirements set forth or referred to in 310 CMR 30.340(1)(a2. and 310 CMR 30.340(1)(f) (g), except that a generator of waste oil or used oil fuel shall be in compliance with 310 CMR 30.253(1)(g) and (h).~~

[Public Hearing Draft Note: miscellaneous amendment 2. clarifies the applicability of tank management standards for different types of Regulated Recyclable Materials.]

3. 310 CMR 30.221(2)(b) is hereby amended as follows:

30.221 General Provisions

(2) Table 310 CMR 30.221 identifies the permit categories and permit procedures for Class A regulated recyclable material...

(b) For activities described in Table 310 CMR 30.221 and designated by a "P", the application shall include the information required by 310 CMR 30.204, and the procedures for permit issuance set forth in ~~310 CMR 30.400~~ 310 CMR 4.00 shall govern.

4. 310 CMR 30.223 is hereby amended as follows:

30.223: Transport and Manifest Standards

(1)

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(4) Class A regulated recyclable material transported by a transporter described in 310 CMR 30.223(10)(b) shall be accompanied by a shipping paper filled out and signed pursuant to 30.223(3) as applicable. The shipping paper shall identify any specification used oil fuel being transported as "specification used oil fuel".

[Note: Please refer to applicable DOT shipping requirements if the Class A shipment is a hazardous material; transporters are required to comply with all DOT shipping requirements.]

5. 310 CMR 30.223(1) is hereby amended as follows:

30.223: Transport and Manifest Standards

(1) A transporter of ~~Class A regulated recyclable material, except specification used oil fuel,~~ specification used oil fuel shall be licensed to transport hazardous waste pursuant to 310 CMR 30.000. A transporter of any other Class A regulated recyclable material shall be either:

6. 310 CMR 30.223(1)(c) is hereby amended as follows:

30.223: Transport and Manifest Standards ...

(1) A transporter of ...

~~(c) A transporter of specification used oil fuel shall be license to transport hazardous waste pursuant to 310 CMR 30.000.~~

7. 310 CMR 30.252(1)(b) is hereby amended as follows:

(b) as hazardous waste in compliance with 310 CMR 30.201, 30.250, and ~~all provisions~~ all applicable provisions of 310 CMR 30.000 other than 310 CMR 30.200.

8. 310 CMR 30.253(9)(a) is hereby amended as follows:

(9) Persons who generate and accumulate waste oil or off-specification used oil fuel ..., and instead shall cause such waste oil or off-specification used oil fuel to be handled in compliance with the following requirements:

(a)Except as specifically provide elsewhere in 310 CMR 30.253(9), such registration shall be in compliance with requirements set forth of referred to in ~~310 CMR 30.353(9)~~ 310 CMR 30.353(5) (requirements governing very small quantity generators of hazardous waste).

9. 310 CMR 30.406(4) is hereby amended as follows:

30.406:Record Keeping

(1)...

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. .

(4) The periods prescribed in 310 CMR ~~30.401~~ 30.406 for keeping records shall be extended automatically for the duration of any unresolved enforcement action regarding the activity in question, or as ordered by the Department.

10. 310 CMR 30.901(2) is hereby amended as follows:

"30.901: Applicability and Compliance ...

(2) No owner or operator of a new hazardous waste facility ~~and no person subject to 310 CMR 30.382,~~ shall accept hazardous waste for treatment, storage, ~~recycling subject to 310 CMR 30.382,~~ or disposal until at least 60 days after: ..."